

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

IN RE:

Case No. 09-12616-MAM

BENDER SHIPBUILDING &  
REPAIR CO., INC.

DEBTOR

**AFFIDAVIT OF CHRISTOPHER T. CAPLINGER REGARDING NOTICE OF  
SALE BY PUBLICATION PURSUANT TO ORDER (A) APPROVING BIDDING  
PROCEDURES FOR SUBMISSION AND ACCEPTANCE OF COMPETING BIDS, AND  
UNDER CERTAIN CIRCUMSTANCES, PAYMENT OF A BREAK-UP FEE  
AND EXPENSE REIMBURSEMENT TO VISION TECHNOLOGIES MARINE, INC.;  
(B) SCHEDULING BIDDING DEADLINE, AUCTION DATE AND SALE HEARING  
DATE; (C) ESTABLISHING PROCEDURE FOR DETERMINING CURE AMOUNTS;  
AND (D) FIXING NOTICE PROCEDURES AND APPROVING FORM OF NOTICE**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Christopher T. Caplinger, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true and correct to the best of my knowledge:

1. I am a Louisiana attorney and a shareholder of Lugenbuhl, Wheaton, Peck, Rankin & Hubbard ("LWPR&H"), a law corporation with its principal office located at 601 Poydras St., Ste. 2775, New Orleans, Louisiana.

2. LWPR&H is counsel to the Debtor in the Debtor's Chapter 11 bankruptcy case.

3. This Affidavit is submitted pursuant to the Order (A) Approving Bidding Procedures for Submission and Acceptance of Competing Bids, and Under Certain Circumstances, payment of a Break-Up Fee and Expense Reimbursement to Vision Technologies Marine, Inc.; (B) Scheduling Bidding Deadline, Auction Date and Sale Hearing Date; (C)

Establishing Procedure for Determining Cure Amounts; and (D) Fixing Notice Procedures and Approving Form of Notice (the "Order"), which was entered by the Bankruptcy Court on December 30, 2009.<sup>1</sup>

4. Paragraph 17(b) of the Order states:

... the Debtor also will publish a notice of the sale of the Purchased Assets substantially in the form of Sale Notice attached to the Motion as Exhibit E. Such notice shall appear in *The Wall Street Journal*, *The Press-Register*, *The Times-Picayune*, and *The Houston Chronicle* (collectively, the "Newspapers") for as often as is reasonable, pursuant to the Newspapers' publication schedules for legal notices, for no less than a ten (10) day period prior to the Bid Deadline.

5. In compliance with Paragraph 17(b) of the Order, the Debtor published a notice of the sale of the Purchased Assets, substantially in the form of the notice attached hereto and incorporated herein as **Exhibit A**, in the following Newspapers:

- *The Wall Street Journal*: Print advertisement in the Eastern division of the newspaper on Thursday, January 7, 2010, and online posting of the ad on [www.wsj.com/legalnotices](http://www.wsj.com/legalnotices) from January 7, 2010, to January 14, 2010.
- *The Press-Register*: Print advertisement from January 5, 2010, to January 14, 2010.
- *The Times-Picayune*: Print advertisement on Wednesday, January 6, 2010, and Wednesday, January 13, 2010.
- *The Houston Chronicle*: Print ad on Thursday, January 7, 2010, and Sunday, January 10, 2010.

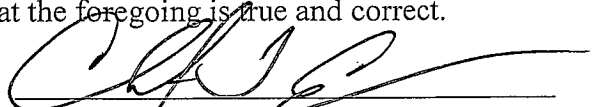
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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Order.

6. Proof of publication, in the form of an affidavit or invoice from each of the Newspapers, is attached hereto and incorporated herein as **Exhibit B**.

7. To the extent that I subsequently discover any facts bearing on this Affidavit, this Affidavit will be supplemented and those facts will be fully disclosed to this Court.

8. I declare under penalty of perjury that the foregoing is true and correct.

  
Christopher T. Caplinger

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS 18<sup>TH</sup> DAY  
OF JANUARY 2010.

  
NOTARY PUBLIC

Bar # 10403

Stewart F. Peck  
Notary Public  
Parish of Orleans  
State of Louisiana  
My commission is for life

**Exhibit A**

**Form of Notice**

**THE WALL STREET JOURNAL.****LEGAL NOTICES**[Home](#)**PUBLIC NOTICE**

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF ALABAMA

In re: Bender Shipbuilding &amp; Repair Co., Inc. (Case No. 09-12616-MAM)

NOTICE IS HEREBY GIVEN that the Bankruptcy Court has issued an order (the "Order") approving bidding procedures and scheduling a bidding deadline, an auction date, and a sale hearing date for the sale of substantially all of the repair and new construction assets, and the assignment and assumption of certain contracts (such assets and contracts, the "Assets"), of Bender Shipbuilding & Repair Co., Inc., whose facilities are located on waterfront property along Mobile Bay in Alabama. The Assets include about 40 acres of operating area (including leased property) with 4,400 feet of deep-water frontage accessed by a 42-foot deep channel from the Gulf of Mexico, and two steel floating dry docks ("Pete B" and "WW"). Instructions on bidding and objecting are included in the Order, which can be viewed and printed by accessing [ftp://ftp.claritylit.com](http://ftp.claritylit.com) and entering the user name "lugenbuhl2" and the password "@RTz31." Copies of the Order can also be obtained by contacting the Clerk of Bankruptcy Court for the Southern District of Alabama at 201 St. Louis Street, Mobile, Alabama 36602 and (251) 441-5391. Assistance in obtaining a copy of the Order can be obtained by emailing a request to [mlopez@lawla.com](mailto:mlopez@lawla.com). The Bankruptcy Court has established January 14, 2010, at 12:00 p.m. Central Standard Time, as the bid deadline for submissions of bids for the Assets, and the auction will be held at the offices of Lugenebuhl, Wheaton, Peck, Rankin & Hubbard in New Orleans, Louisiana, on January 15, 2010, beginning at 10:00 a.m. Central Standard Time. The deadline for objections to the sale of the Assets and cure costs associated with assumed contracts is January 18, 2010, at 12:00 p.m. Central Standard Time. The hearing to approve the sale will be held on January 19, 2010, beginning at 8:30 a.m. Central Standard Time before the Bankruptcy Court for the Southern District of Alabama, 201 St. Louis Street, Mobile, Alabama 36602.

Stewart F. Peck, Esq., Lugenebuhl, Wheaton, Peck, Rankin & Hubbard, Counsel for Bender Shipbuilding & Repair Co., Inc., New Orleans, Louisiana, (504) 568-1990, December, 31, 2009.

Appeared in: **Wall Street Journal** on Thursday, 01/07/2010

[Printer-friendly version](#)[E-mail to a friend](#)[Home](#)Powered by [myPublicNotices.com](#)

Copyright © 2010 Dow Jones &amp; Company, Inc. All Rights Reserved




**Exhibit B**

**Proof of Publication**

**SS:**

Eastenson

Albert E. ...

 **ALBERT FOX**  
Notary Public, State of Texas  
My Commission Expires  
February 15, 2012

**PUBLIC NOTICES**

**PUBLIC NOTICE**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

In re: Bender Shipbuilding & Repair Co., Inc. (Case No. 09-12616-MAM)

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Stewart F. Pack, Esq., Luenbuhl, Wheaton, Pack, Rankin & Hubbard, Counsel for Bender Shipbuilding & Repair Co., Inc., New Orleans, Louisiana (504) 566-1990, December 31, 2009.



Welcome to your Bank - Windows Internet Explorer

https://it.treasury.regions.com/phcp/html/mainWeb.htm

File Edit View Favorites Tools Help

☆ Favorites | BanderNET > Welcome | My Account | Suggested Sites | Free HTML | Web Site Gallery

Welcome to your Bank

# iTreasury

[Inquiry](#) | [Stop Payments](#) | [Monitor](#) | [Help](#)

[Dashboard](#)  
[Inquiry/Stop Payment](#)  
[Balance Inquiry](#)  
[Administration](#)  
[Exit](#)

## Inquiry/Stop Payment > Inquiry > Paid Checks

Account Number\*

From Serial Number\*  To Serial Number

From Posting Date  To Posting Date

Check Amount

1 of 1

Account Number: 0107037791-ABA062000019-Chapter 11 Debtor in Possession

Serial # Number	Amount Payee	Issue Date	Posting Date	Check Image
00000001678	\$2,774.38		01/13/2010	

1-1

Internet 100%

Start | Bander, Tom - Inb... | Overview Binder | WINSHIP - Remote | Welcome to you... | Microsoft Excel - R... | 1:03 PM

998822

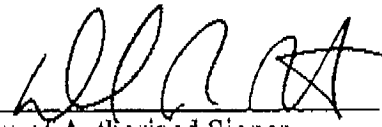
09-3600

WT 3600  
POSTED 1/6/09  
ND

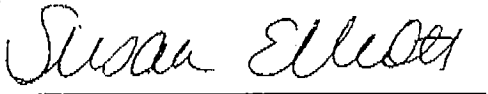
## REGIONS BANK

### OUTGOING WIRE INSTRUCTIONS

1. Dollar Amount: \$ 4,641.56
2. Beneficiary Bank: JP Morgan Chase  
New York, NY 10004  
ABA#: 021000021
3. For the Account of: Dow Jones & Company  
  
Account #: 140 024880
4. Debit Account: Bender Shipbuilding & Repair Co., Inc.  
Chapter 11 - Debtor-In-Possession  
Account # 0107037791

  
Signature of Authorized Signer

Date: 1/06/2010

  
Signature of Secondary Signer

Date: 1-6-2010

FED TIME: \_\_\_\_\_

FED SEQUENCE NO: \_\_\_\_\_

Authorized Signers:

David R. Barnett, T. B. Bender, Jr., Susan T. Elliott

5-95-8500-  
1273-J

POSTED-ACCOUNTING  
JAN 06 2010

# Order Confirmation

<u>Ad Order Number</u> 0000006090	<u>Customer</u> Lugenbuhl Wheaton Peck Rankin Hubbard	<u>Payer Customer</u> Lugenbuhl Wheaton Peck Rar	<u>PO Number</u> Michelle Wong
<u>Sales Rep.</u> OstensonE	<u>Customer Account</u> 500013087	<u>Payer Account</u> 500013087	<u>Ordered By</u> Michelle Wong
<u>Order Taker</u> OstensonE	<u>Customer Address</u> 601 Poydras St, Suite 2775 New Orleans LA 70130 United States	<u>Payer Address</u> 601 Poydras St, Suite 2775 New Orleans LA 70130 United States	<u>Customer Fax</u>
<u>Order Source</u>	<u>Customer Phone</u> 504-568-1990	<u>Payer Phone</u> 504-568-1990	<u>Customer Email</u>

<u>Tear Sheets</u> 0	<u>Pivots</u> 0	<u>Amplifieds</u> 1	<u>Blind Box</u>	<u>Order Status</u> Live	<u>Current Queue</u> Ready
<u>Contract Status</u> No	<u>Contract Level</u>	<u>Ad Order Notes</u>	<u>Total Amount</u> \$4,841.56		

<u>Ad Number</u> 0000006090-01	<u>Ad Type</u> C-WSJ 8 Col-Disple	<u>Ad Size</u> : 1.0 X 5.5000"	<u>Color</u> <NONE>	<u>Production Method</u> Digital	<u>Production Notes</u>
<u>External Ad Number</u>	<u>Ad Attributes</u>	<u>Ad Released</u> No	<u>Pick Up</u>		

<u>Product Information</u>	<u>Placement/Classification</u> <u>Position</u>	<u>Run Dates</u> <u>Sort Text</u>	<u># Inserts</u>	<u>Cost</u>
WSJ: Eastern	Legal Notices Public Notices 7	1/7/2010 BENDER SHIPBUILDING	1	\$4,141.56
Online Small Bus::Online	Upgrades Small Bus Legal PrintWeb - W16	1/7/2010 BENDER SHIPBUILDING	1	\$500.00

1/5/2010 5:18:48PM

1

**DOMINION**  
A NEWS CORPORATION COMPANY

## 201C

CHARGE TO:
<input type="checkbox"/> FIRM EXPENSE
<input checked="" type="checkbox"/> FILE NO: 281000-09490
FILE NAME Bender
DISBURSEMENT CODE: _____
DESCRIPTION: Payment for placement

of od in mobile  
Paper.

(B) ANY OTHER EXPENDITURE OF \$25.00 OR MORE.	
TOTAL ALL EXPENSES \$	1,201.77
LESS ADVANCE	
BALANCE DUE	\$ 1,201.77

**APPROVED BY**

## Order Confirmation

Ad Order Number  
0001586937Sales Rep.  
chevinsOrder Taker  
chevinsOrder SourceCustomer  
LUGENBHUL, WHEATON, PECK, RANKIN &  
Customer Account  
1118186Customer Address  
601 POYDRAS STREET SUITE 2775  
NEW ORLEANS LA 70130 USACustomer Phone  
504-568-1990Payer Customer  
LUGENBHUL, WHEATON,  
Payer Account  
1118186Payer Address  
601 POYDRAS STREET SUITE 2775  
NEW ORLEANS LA 70130 USAPayer Phone  
504-568-1990PO NumberOrdered By  
MARISSA EMAILCustomer FaxCustomer EmailSpecial Pricing  
NoneTear Sheets  
0Proofs  
0Affidavits  
1Blind BoxPromo TypeMaterialsInvoice TextAd Order NotesNet Amount  
\$1,261.77Tax Amount  
\$0.00Total Amount  
\$1,261.77Payment Method  
edit Card - AmEx 200Payment Amount  
\$1,261.77Amount Due  
\$0.00Ad Number  
0001586937-0 Legal adsAd Type  
1.0 X 370 wordsAd Size  
<NONE>Color  
AdBookerProduction Method  
AdBookerProduction NotesExternal Ad NumberAd AttributesAd Released  
NoPick UpWYSIWYG Content

FROM

1/5/2010 4:21:29PM

1

HOUSTON CHRONICLE  
CREDIT SERVICE DEPARTMENT  
801 TEXAS AVENUE  
HOUSTON, TX 77002

Return Service Requested

# CLASSIFIED ADVERTISING INVOICE/STATEMENT

Advertiser/Client Number:	086826224
Advertiser/Client Name:	JENBUHL,WHEATON,PECK,RANKIN
Billed Account Number:	086826224
Billing Date:	01/10/10
Payment Terms:	DUE 15 DAYS
Current Net Amount:	\$2,774.38
Total Amount Due:	\$2,774.38
Amount Enclosed:	\$ _____

Please call 713-362-7792  
to pay by credit card



*Please make your checks payable to HOUSTON CHRONICLE.*

LUGENBUHL,WHEATON,PECK,RANKI  
ELIZABETH R. CARTER  
601 POYDRAS ST STE 2775  
NEW ORLEANS LA 70130-6041

HOUSTON CHRONICLE  
P.O. BOX 80085  
PRESCOTT, AZ 86304-8085



33412010011000000000000086826224029991850010002774385

Please detach and return above portion with your payment



# CLASSIFIED ADVERTISING INVOICE/STATEMENT

HOUSTON CHRONICLE  
P.O. BOX 80085  
PRESCOTT, AZ 86304-8085  
TID #: 76-0556295

Advertiser/Client Name	Adv/Client Number	Billed Acct Number	Billing Period	Sales Rep.	Total Amount Due
LUGENBUHL,WHEATON,PECK,RANKI	086826224	086826224	01/10/10 - 01/10/10	TORRENCE,C #0630	\$2,774.38

Date	Newspaper Reference Number	Description/Other Comments and Charges	SAU Size Billed Units	Times Run Rate	Gross Amount	Net Amount
01/07/10 THU	INV:999185001 AD#:24100529	1245 LEGAL NOTICES PUBLIC NOTICE UNITED S SLS:630 BY:ELIZABETH CARTER	98X1C 196L	2 14.16	\$2,774.38	\$2,774.38

HOME SHOPPING? CHECK THE WEEKEND CHRONICLE. SATURDAY FOCUSES ON NEW HOMES, COMMUNITIES AND DEVELOPMENTS AND SHOWCASES COMMUNITY AMENITIES, AND MORE. PLUS GREAT ARTICLES ON NEW HOME TRENDS, SUCH AS OUTDOOR KITCHENS, GAME ROOMS, AND PRACTICAL INFORMATION ON MORTGAGES. SUNDAY HOMES TARGETS RESALE HOMES, HIGH RISE LIVING, CONDOS, TOWNHOMES AND MORE. AND EVERY DAY, GO TO [CHRON.COM/HOMES](http://CHRON.COM/HOMES) FOR HOME LISTINGS, PHOTO TOURS, INFORMATION ON THE HOME BUYING PROCESS, WAYS TO GET A FREE HOME VALUATION AND HOW TO FIND AN AGENT. TO ADVERTISE, CALL 713-224-6868 OR EMAIL [CLASSIFIEDS@CHRON.COM](mailto:CLASSIFIEDS@CHRON.COM).

Current	30 days	60 days	90 days	120 days	Unapplied Amount	Total Amount Due
\$2,774.38	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,774.38

## AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:

COUNTY OF HARRIS:

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on the day personally appeared: GAIL CHASTUN, who after being duly sworn, says that she is the ACCOUNTS RECEIVABLE LEAD at the HOUSTON CHRONICLE, a daily newspaper published in Harris County, Texas, and that the publication, of which the annexed herein, or attached to, is a true and correct copy, was published to-wit:

---

LUGENBUHL,WHEATON,PECK,RANKI 24100529 86826224  
RAN A LEGAL NOTICE  
SIZE BEING: 1 X 98 L

product	date	class	page
hc	Jan 7 2010	1245.0	B_thulg_3
hc	Jan 10 2010	1245.0	B_sunlg_3

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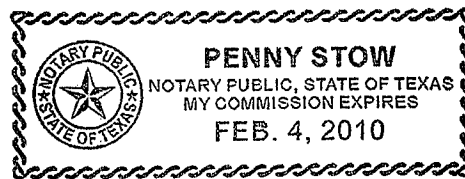
*Gail Chastun*

GAIL CHASTUN  
ACCOUNTS RECEIVABLE LEAD

Sworn and subscribed to before me, this the 10th Day of January A.D. 2010

*Penny Stow*

Notary Public in and for the State of Texas



**Elliott, Susan**

---

**From:** Barnett, David  
**Sent:** Wednesday, January 06, 2010 10:48 AM  
**To:** Elliott, Susan  
**Subject:** FW: Houston Chronicle Legal Notice for 1/7 and 1/10

Please do a check request.

-----Original Message-----

**From:** Torrence, Cynthia [mailto:Cynthia.Torrence@chron.com]  
**Sent:** Wednesday, January 06, 2010 10:41 AM  
**To:** Barnett, David  
**Subject:** Houston Chronicle Legal Notice for 1/7 and 1/10

Good morning David, the cost for Thursday and Sunday is \$2774.38. You can overnight the check to me at the address below. Please mark it to my attention made payable to the Houston Chronicle. Thanks Cynthia.

**Cynthia Anne Torrence**  
*Legal Advertising Representative*  
Phone: 713-362-6435

Fax: 713-354-3798  
Email: [legals@chron.com](mailto:legals@chron.com)

**HEARST** *media services*

Houston Chronicle - chron.com - Yahoo!

801 Texas Avenue, 4<sup>th</sup> floor legals, Houston, TX 77002

=====  
This e-mail message is intended only for the personal  
use of the recipient(s) named above. If you are not  
an intended recipient, you may not review, copy or  
distribute this message.

If you have received this communication in error, please  
notify the sender immediately by e-mail and delete the original message.  
=====



## REQUEST FOR CHECK

DATE NEEDED 01/06/2010

DATE 01/06/2010

TIME NEEDED TODAY FOR FEDEX - RETURN TO SUSAN E

CHECK ONE:

VENDOR / BADGE NO. 13259

## MATERIAL

SUBCONTRACT \_\_\_\_\_

PAYEE Houston Chronicle

AMOUNT	\$2,774.38
--------	------------

Address: \_\_\_\_\_

Two Thousand Seven Hundred Seventy Four and 38/100 DOLLARS

CHECK ONE:

XX JOB AND ITEM NUMBERS: 01-05-95-8500-1273-J

JOB AND ITEM NUMBERS:

JOB AND ITEM NUMBERS:

\_\_\_\_\_  
EMPLOYEE ADVANCE OR CONTRIBUTION; INSURANCE REFUND

ACCOUNTS RECEIVABLE; CUSTOMER ADVANCE OR REFUND

REFERENCE TO	NAME _____	JOB NO.	
--------------	------------	---------	--

OTHER (SPECIFY) \_\_\_\_\_

CHARGE NUMBER \_\_\_\_\_

REMARKS Legal Notice of Sale

SIGNED [Signature] APPROVED [Signature]

APPROVED

1/6/2010

001678

## BENDER SHIPBUILDING &amp; REPAIR CO., INC.

MOBILE, ALAB

INVOICE DATE	INVOICE NUMBER	P. O. NUMBER	DESCRIPTION	NET AMOUNT	ACC
01/06/10	09-3590	000095-		2774.38	85
Observe: Legal Notice of Sale					
==== Check Total ====>				2774.38	
DETACH HERE BEFORE DEPOSITING					

**BENDER**

SHIPBUILDING &amp; REPAIR CO., INC.

CHAPTER 11 DEBTOR-IN-POSSESSION

P. O. Box 42 — 265 S. Water Street — Mobile, Alabama 36601  
Telephone: 251-431-8000 Fax: 432-2260001678  
CHECK NUMBER84-3  
65

VOID AFTER SIX MONTHS

PAY \*\*\*\*\*2,774 DOLLARS AND 38 CENTS

REGIONS BANK MOBILE, AL

DATE  
01/06/10AMOUNT  
\*\*\*\*\*2,774.38TO  
THE  
ORDER  
OF

(13259)

HOUSTON CHRONICLE  
801 TEXAS AVE.  
HOUSTON TX 77002

BENDER SHIPBUILDING &amp; REPAIR CO., INC.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

001678 00654036260 01 0703 7791

## PUBLIC NOTICE

UNITED STATES  
BANKRUPTCY COURT  
SOUTHERN DISTRICT  
OF ALABAMA

In re: Bender Shipbuilding & Repair Co., Inc. (Case No. 09-12616-MAM)  
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